

MINUTES OF THE REGULAR MEETING OF MAY 23, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 23, 2013, in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. I.G. Burton, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the Minutes of May 9, 2013 as amended. Motion carried 5 – 0.

OLD BUSINESS

Conditional Use #1962 – application of **CHESAPEAKE AGRISOIL, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a composting facility as an extension to Conditional Use No. 1314 and Conditional Use No. 1691 (A micro-nutrient plant with related truck entrance and rail spur for processing and handling of poultry litter), to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 228.88 acres, more or less, lying west of Route 13A, north of Road 485 (Tax Map I.D. 1-32-6.00-88.01 and 95.00 and Tax Map I.D. 1-32-11.00-41.00)

The Chairman referred back to this application, which has been deferred since April 25, 2013.

Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use #1962 for Chesapeake Agrisoil, LLC for a composting facility based on the record made at the public hearing and for the following reasons:

1. This is an extension of existing Conditional Uses approved by Sussex County. Conditional Uses #1314 and #1691 were for a micro-nutrient plant with related truck entrances and a rail spur for the processing and handling of poultry litter. This is a reasonable change to the existing uses and a reasonable expansion to the overall site.
2. The proposed site is adjacent to the existing micro-nutrient plant that is operated by Perdue Agrisoil, LLC. The proposal is consistent with this adjacent use.
3. The proposed use will have a positive economic impact on Sussex County and its residents, with full-time employees on the site, and additional equipment and hauling services that are necessary for the operation of the facility.
4. The application is supported by the Inland Bays Foundation.
5. The Secretary of the Delaware Department of Agriculture supports the project.

6. The use is consistent with the underlying AR-1 Agricultural Zoning, and the rural agricultural uses that exist in the vicinity of the site.
7. The proposed use will be a benefit to agriculture in Sussex County, as well as the Delmarva Peninsula, as an efficient means to eliminate a potential source of excess nitrates and phosphates from area soils. It also provides an innovative but environmentally sensitive method of handling poultry waste products and produces an end-product that can be beneficially used in an environmentally responsible manner.
8. This use promotes the goals of the Sussex County Comprehensive Plan by enhancing the environmental quality of Sussex County. It is also a use which has a public or semi-public character that is essential and desirable to the general convenience and welfare of Sussex County and its residents.
9. This recommendation for approval, however, is subject to the following conditions:
 - a. The conditions of previously approved CU #1314 and #1691 are unchanged by this approval, unless specifically modified herein.
 - b. The use shall be strictly limited to the improvements shown on the April 11, 2013 Site Plan proposed by Axiom Engineering, LLC. Any future additions, alterations or improvements to the Site Plan shall be subject to an application and public hearing to amend this Conditional Use.
 - c. Any rail cars accessing the site shall be cleaned at an off-site location.
 - d. The noise and odor emissions from the operations of the composting facility shall not exceed minimum standards established by D.N.R.E.C. or any other agency having jurisdiction over the project. The odors shall be controlled by negative air pressure in the receiving building and a bio filter and by the Gore Cover System.
 - e. The lands on the Site Plan surrounding the composting facility shall remain wooded north of the truck entrance. The location of all wooded, vegetative and buffer areas shall be shown on the Final Site Plan.
 - f. As proposed by the Applicant, all wooded areas outside of the approximately 20 acre project area shall remain as woodlands. Cut-over woodlands shall be allowed to mature.
 - g. Any lighting on the site shall be downward screened so that it does not illuminate neighboring properties or roadways.
 - h. All trucks entering the site must be covered.
 - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission

Motion by Mr. Smith, seconded by Mr. Johnson, and carried 4 votes to none, with Mr. Ross not participating, to forward this application to the Sussex County Council with the recommendation that it be approved for the reasons, and with the conditions stated. Motion carried 4 – 0.

Change of Zone #1728 – application of **LIGHTHOUSE CARILLON, LLC** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.81829 acres, more or less, lying southwest of Route 5

(Indian Mission Road) 600 feet west of Route 24 (John J. Williams Highway) (Tax Map 2-34-23.00-Part of Parcels 260.00 and 269.18).

The Chairman referred back to this application, which has been deferred since May 9, 2013.

Mr. Johnson stated that he would move that the Commission recommend approval of Change in Zone Number 1728 for a change in zoning from AR-1 to CR-1 for Lighthouse Carillon, LLC, based upon the record made at the public hearing and for the following reasons:

1. This is an extension of existing CR-1 zoning. The area is approximately 2.8 acres in size. The entire parcel is the site of a commercially-zoned shopping center. By adding this additional area of CR-1 land, the site plan and access to the shopping center will be significantly improved.
2. The rezoning is consistent with nearby zoning and uses. At or near the intersection of Routes 5 and 24, there are 2 other commercially-zoned shopping centers, gas stations, a bank, and other commercial zonings and business and commercial uses.
3. The proposed rezoning will not have any adverse impact upon traffic. Instead, it will improve traffic flow within the planned Carillon Square commercial project and adjacent roadways by allowing a safer means of ingress and egress to the project.
4. The area is served by the Long Neck Sanitary Sewer District and water will be provided by Tidewater Utilities, Inc.
5. The proposed zoning meets the purposes of the CR-1 Zoning District in that it promotes the orderly growth, convenience, order, prosperity and welfare of present and future residents of Sussex County.
6. No parties appeared in opposition to the proposed rezoning.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved for the reasons stated. Motion carried 5 – 0.

Subdivision #2013 – 1 – application of **BOARDWALK DEVELOPMENT, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 17.52 acres into 35 lots (Cluster Development), located north of Road 277 (Angola Road) approximately 2,200 feet west of Road 278 (Tax Map I.D. 2-34-12.00-13.01)

The Chairman referred back to this application, which has been deferred since May 9, 2013.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Subdivision #2013 – 2 – application of **VESCO, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, for a 30 lot expansion to a preliminary approvals 183 lot cluster subdivision for a total of 213 lots on 162.95

acres, located east of Road 277 (Robinsonville Road), 400 feet south of Road 287 (Kendale Road) (Tax Map I.D. 2-34-6.00-90.00)

The Chairman referred back to this application, which has been deferred since May 9, 2013.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

PUBLIC HEARINGS

Mr. Wheatley advised those present that the Commission would be holding a combined public hearing on both applications for consideration of the applications and that the Commission would be rendering their decision individually on each application.

Change of Zone #1729 – application of **IDA C. FAUCETT, FAUCETT HEIRS, LLC AND MASSEY’S LANDING PARK, INC.** to amend the Comprehensive Zoning Map from MR Medium Density Residential District to an AR-1 Agricultural Residential District, to be located in a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 50.83 acres, more or less, lying on both sides of the eastern end of Long Neck Road (State Route 23, a.k.a. Route 22) (Tax Map I.D. 2-34-25.00-31.00, 31.02, & 31.04)

Conditional Use #1963 – application of **IDA C. FAUCETT, FAUCETT HEIRS, LLC AND MASSEY’S LANDING PARK, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a campground, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 50.83 acres, more or less, lying on both sides of the eastern end of Long Neck Road (State Route 23, a.k.a. Route 22) (Tax Map I.D. 2-34-25.00-31.00, 31.02 & 31.04)

The Commission found that the applications were filed on March 19, 2013.

The Commission found that, on March 19, 2013, the Applicants had submitted an Exhibit Booklet titled “Castaways at Massey’s Landing” for consideration. The Booklet contains references to the Zoning and Conditional Use applications; Environmental Assessment and Public Facilities Evaluation Report; Preliminary Land Use Service (PLUS) comments and responses; a boundary survey of the site; written legal descriptions, deeds and recorded surveys; preliminary site plan and Massey’s Landing Subdivision Record Plan with a DelDOT Letter of No Objection; a cultural resources assessment; campground bathhouse floor plans and elevations; a U.S. Army Corps. of Engineers wetlands approval letter and survey; a vegetation community report and environmental consultant response; Dart bus schedules and rates; a draft emergency response plan; soils map; flood zone maps, and a FEMA Panel.

The Commission found that, on May 13, 2013, the Applicants had submitted a Supplement to the Exhibit Booklet, which included a Willing and Able to Serve letter from Long Neck Water

Company; a Delaware Transit Corporation bus stop location approval; a 2005 Massey's Landing subdivision traffic impact study recommendation; and a rendered preliminary site plan.

Mr. Lank advised the Commission that the Office of State Planning Coordination provided comments in reference to the PLUS review on January 18, 2013.

Mr. Lank advised the Commission that the Delaware Department of Transportation (DelDOT) had provided comments: on January 28, 2013 in reference to the Traffic Impact Study; on April 10, 2013 on the Preliminary Site Plan; and on May 13, 2013 provided an Entrance Location Approval Only letter.

The Commission found that On May 21, 2013 the Sussex County Engineering Department Utility Planning Division provided comments in the form of a memorandum which reference that the site is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available; that Ordinance 38 construction is required; that the current System Connection Charge Rate is \$3,711.00 per EDU; that there are potential gravity connection points in Long Neck Road; that conformity to the North Coastal Planning Study will be required; that connection to the sewer system is mandatory; that an upgrade to a downstream pump station may be required at the owner's expense; that when the pump station upgrade is completed, adequate capacity can be assumed if the total project is approximately 147 EDU as noted on the conditional use application; that this project is located in an area that is prone to flooding, however, limited information regarding flood zones has been provided with the application; that the County reserves the right to alter its comments or provide additional comments pending the submittal of said information; that the County requires design and construction of an on-site collection system to meet County Engineering Department Standards and Procedures; that the County assumes operations and maintenance of the sewer system when beneficial acceptance is approved by the County; that drains from pools, and pool decks and filter backwashes shall not be connected to the sewer system and alternative disposal methods must be provided; that the County owns existing sewer components on the proposed site, and coordination of existing public sewer with the project's design is required; that the County Engineer must approve connection points, and requires that a Sewer Concept Plan be submitted for review and approval; and that System Connection Charges will apply.

The Commission found that on May 22, 2013 Dan Parson, the County Historic Preservation Planner, provided comments advising that he has reviewed the preliminary site plan, toured the site and reviewed the Delaware Division of Historic and Cultural Affairs PLUS comments, as well as a report compiled by local archaeologist, Dr. Edward Otter, and offers the following: there is a known cultural resource on the site, a prehistoric archaeological site; that land use has been varied in this area over the years, but it cannot be overstated the high potential for encountering evidence of Native American occupation in this area; that it should be noted that abandoned and unmarked human remains are very common throughout the region; that an archaeological consultant shall examine the site to locate any remains, and the plans shall be revised to avoid disturbing said remains; and that a Phase I Archaeological Survey shall be

performed to locate any archaeological sites on the property to be submitted for his review and comments.

Mr. Lank advised the Commission that 55 letters and emails have been received in opposition to this application since March 27, 2013, and that on May 20, 2013 a binder was submitted in opposition to the application containing 967 signatures.

Mr. Lank advised the Commission that all correspondence, whether in support, in opposition, or agency comments are available for review.

The Commission found that Lynn Faucett and other Faucett family members were present in support of the applications with James Fuqua, Attorney with Fuqua, Yori and Willard, P.A., Mike Riemann, Professional Engineer with Becker-Morgan Group, Jeff Clark with Land Tech Land Planning, and Kathleen Walsh with Castaways Ocean City, and stated in their presentation and in response to questions raised by the Commission that they are requesting approval to change the zoning from MR Medium Density Residential to AR-1 Agricultural Residential so that the site can be developed with an campground/RV park; referenced the Exhibit Booklet and stated that campgrounds have been a hot topic in Sussex County this year, with three applications in the last eight months; that after reviewing the opposition documents it appears that most of the people that have provided comments or signed petitions have not seen or reviewed the applications; that the project is planned on both sides of Long Neck Road and is adjacent to State land, the boat ramp site, the existing Massey's Landing Manufactured Home Park and the existing Pot-Nets Seaside Manufactured Home Park; that the site contains 50.83 acres of land and does not include Mrs. Faucett's home site or the existing Massey's Landing Manufactured Home Park; that the site is currently zoned MR-RPC Medium Density Residential – Residential Planned Community; that the RPC was approved in May 2007 for 120 units (48 single-family units and 48 duplex units on the north side of Long Neck Road and 24 single-family units on the south side); that the RPC has not been developed due to the impacts of the recent economy downturn; that all of the lands around the site have AR-1 Agricultural Residential zoning and are improved with manufactured home communities or water bodies; that they are proposing 322 campsites with sewer, water, and electric hookups, bathhouses, laundry, general store, café, snack bar, and recreational and maintenance facilities; that the recreational amenities support the use of the campground; that the purpose of a Conditional Use references that uses are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare but, because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties but on a large section of the County, require the exercise of planning judgment on location and site plan; that County sewer is available for up to 147 EDU; that central water will be provided by Long Neck Water Company, a public utility; that Delaware Electric Cooperative will provide electricity; that the site is located in the Indian River Fire Company service area; that shopping and service uses are available in the area; that a traffic impact study was completed in 2005 and has again been reviewed by DelDOT, with comments in the Exhibit Booklet under Tab 4; that DelDOT has issued a Letter of No Objection for the entrance location; that a bus stop has been suggested by DelDOT; that a DART bus stop for DART Route 207 will be provided; that DART comments in

the Supplemental Exhibit Booklet reference that “Given the location and proposed land use the project would offer an ideal turnaround in conjunction with a premier bus stop. We will require that the developer sign a Memorandum of Agreement holding the Delaware Transit Authority harmless. The turnaround will need to be located in an area with easy entrance and exit and separated from other vehicular traffic to prevent schedule delays. The covered waiting area must be ADA accessible and should include bike racks, bench seating, a kiosk for information and trash receptacle. We also encourage you to connect the bus stop with your internal pedestrian and bicycle network”; that Long Neck Road is a two lane roadway with paved shoulders; that the roadway will accommodate RVs without impacting pedestrians and cyclists; that the campground will be seasonal; that the developers will be working with State and County officials to establish an Emergency Evacuation Plan and will comply with voluntary and mandatory evacuations (see Tab 11 in the Exhibit Booklet); that according to the State Strategies the site is located in an Investment Level 3, a Growth Area; that the site should be located in an Investment Level 1 since the area is almost fully developed and since this project could be considered infill; that according to the Comprehensive Plan Update the site is located in the Environmentally Sensitive Developing Area, a growth area; that according to the Plan, new development should be located in growth areas; that the Plan includes references that development should be directed to areas that have community services; that the County agricultural economy should be conserved by promoting farming and preserving agricultural land values; that tourism should be encouraged; that new developments should incorporate preserved usable open space and other best practices; that Long Neck Road is adequate to maintain the traffic; that according to traffic counts and calculations traffic should be decreased from the recently approved RPC plans for the site; that the use complies with the Mobility Element of the Plan; that the project provides economic growth; that the Faucett family has owned the property since 1938 and believes in property rights; that the Faucett family sold the property to the State that is used for the boat ramp; that Long Neck Road is classified by DelDOT as a Major Collector Road, the same as Route 24; that the Road contains 12 foot lanes with 8-foot shoulders; that two access points are proposed; that the Long Neck Road/Banks Road intersection was recently upgraded by DelDOT; that the Long Neck Road/Pot Nets Road improvements will be required; that they are proposing to install pervious pavement with filter strips, rather than impervious pavement; that none of the adjacent developments went through the DNREC or Sussex Conservation District process for stormwater management, and probably could not have been developed, as developed, under current regulations; that they will agree to meet all of DelDOT’s requirements; that they will meet all of DNREC and Sussex Conservation District stormwater management requirements; that they plan on utilizing green technologies and best management practices; that wetlands have been delineated and the boundaries approved; that there are no threatened/endangered species on site; that they have met with the Office of the State Fire Marshal, the Indian River Volunteer Fire Company, DNREC, the U.S. Army Corps. of Engineers, the association of park owners, and residents of the area; that the project will have controlled and gated access; that the streets within the project will be sized to accommodate the largest emergency vehicle of the Indian River Volunteer Fire Company; that no campsites are proposed within 400-feet of a dwelling of other ownership; that there will not be any lot sales; that they are proposing to provide space for RVs, travel trailers, and some tent camping, no cabins; that no phasing is proposed; that they intend to develop the entire site in one phase and hope to be able to open for the 2014 camping season;

that a 50-foot buffer setback is being provided from wetlands; that the project will include pavilions, an aquatic rental center (no motorized watercraft), concierge, golf cart rental center, general store, welcome center/administrative offices, swimming pool, café/snack bar, bath houses, nature center/activity lodge, lodge meeting center/conference center, beach lounge BBQ and café bar, remote tenting area and bath house, maintenance center, DART bus stop, interior crabbing and fishing piers, and a dog park; that employee parking will be provided; that a Bald Eagle nest exists off site (Lynch Thicket), not on this site; that there will be a 330-foot buffer from the Bald Eagle nest; that no improvements are proposed in buffer areas; that they will be required to obtain seven permits from either the U.S. Army Corps. of Engineers or DNREC for piers, erosion sediment control, crossings, etc.; that landscaping plans will be submitted; that it will not be necessary that fill be brought in from off-site, due to the existence of the sandy area on-site; that the Castaways Ocean City site has not had any traffic issues, and they do not anticipate any traffic issues at this site; that buses from the Ocean City site are crowded, showing that the bus service will work; that they have established a speedy check-in service; that the Faucett family are all members of the partnership with the Burbage family in the development of this project; that someone from the Faucett family has lived and worked this property since the 1960s; that the Faucett family has partnered with the Burbage family due to the experience of the Burbage family in developing campgrounds; that the Faucett family has watched the Long Neck area develop and voiced no objection to other projects; and that the project is a benefit to tourism.

The Commission found that Mr. Fuqua offered the following suggested Findings of Fact for consideration for Change of Zone No. 1729: 1) This is an application to amend the Comprehensive Zoning Map from MR (Medium Density Residential) to AR-1 (Agricultural Residential) for 50.83 acres of land located at the eastern end of Long Neck Road; 2) The proposed use of the property is as a Campground/RV Park with amenities which require conditional use approval in the AR-1 zoning district; 3) The property is located in the Environmentally Sensitive Developing Area which is a designated growth area under the 2008 Sussex County Comprehensive Plan; 4) The property is located in an Investment Level 3 under the Strategies for State Policies and Spending as is much of the Environmentally Sensitive Developing Area; 5) The property was rezoned MR-RPC as Change of Zone No. 1608 in May of 2007, for a 120 unit residential development; 6) All lands bordering the property are zoned AR-1, as are the majority of lands in the Long Neck area; and for the stated reasons the rezoning of the property to AR-1 would be in accordance with the Comprehensive Plan, consistent with the existing zoning in the area and appropriate for the property.

The Commission found that Mr. Fuqua offered the following suggested Findings of Fact for consideration for Conditional Use No. 1963: 1) This is an application for a Conditional Use in an AR-1 Zoning District (rezoning application from MR to AR-1 being considered with this Conditional Use application) for a 322 site campground/RV park with amenities on a parcel of land containing 50.83 acres located at the eastern end of Long Neck Road; 2) Under the Sussex County Comprehensive Plan Update, the site is located in the Environmentally Sensitive Developing Area (ESDA) which is a designated Growth Area on the Comprehensive Plan's Future Land Use Map; 3) The Comprehensive Plan strongly encourages that development in the

ESDA be served by central sewer and water facilities and the proposed Conditional Use will be served by Sussex County sewer, as part of the Long Neck Sanitary Sewer District and will utilize central water provided by the Long Neck Water Company; 4) The Conditional Use is in accordance with the Plan's vision that Sussex County will maintain its role as Delaware's agricultural leader, that new full time residences, second home growth, and seasonal tourism will continue to drive the local economy; 5) The Conditional Use is consistent with the purposes and goals of the Sussex County Comprehensive Plan Update since it (1) promotes economic development; (2) promotes tourism; and (3) is consistent with the character of the zoning and development in the area; 6) The site is located in an Investment Level 3 under the State Strategies for State Policies and Spending and development is appropriate. Much of the ESDA is designated as Investment Level 3 which recognizes that it is a future growth area; 7) The Applicant participated in the PLUS process, and has responded appropriately to the PLUS comments and has submitted for the record – an Environmental Assessment and Public Facility Evaluation Report properly addressing the stated criteria; 8) The Conditional Use will have no negative environmental impact. All required buffers will be provided, Green Technology, Best Management Practices as recommended by DNREC, including a combination of bio-retention, infiltration, bio-swales and filter strips will be utilized to achieve storm water quality management together with pervious pavements to meet or exceed DNREC requirements. The site will be served by County sewer and public water. Wetlands will not be disturbed except where authorized by appropriate permits and the wetland delineation has been approved by the U.S. Army Corps. of Engineers; 9) The Conditional Use will have no negative impact on traffic. The site is currently approved for a 120 residential unit development and the Conditional Use will have similar or less traffic impact than the use already approved. DelDOT has reviewed and accepted the Applicant's Traffic Impact Study and has requested the Applicant's participation in future improvements; 10) Long Neck Road is a well maintained two lane road with adequate shoulders to accommodate vehicles coming and leaving the site in a safe manner. In addition DART operates a bus route providing round-trip bus service from the Rehoboth Park and Ride to Massey's Landing during the summer season. A DART bus stop and turnaround will be provided on the site; 11) There will be no negative impact on schools or other public facilities since the Conditional Use will operate seasonally from April 1 to October 31st; 12) The site is an appropriate location for the Conditional Use since shopping and services are located on Long Neck Road in addition to services located on site. The property is an "in-fill" piece, adjacent to manufactured home parks on the west and south and the bay and the State of Delaware boat launch on the north and east; 13) The Conditional Use is essential and desirable for the general convenience and welfare since it will provide tourism related services, full and part time employment and significant secondary economic benefit to area business; 14) The Conditional Use with the following conditions will not have any adverse impact on the uses or values of area properties, will contribute to the convenience and welfare of Sussex County and its residents and is consistent with the purposes, goals, and provisions of the Sussex County Zoning Ordinance and Comprehensive Plan: 1. The maximum number of RV sites shall be 322; 2. All entrance and other DelDOT requirements shall be completed as required by DelDOT including the requirement requested by DelDOT that "the Developer should enter into an agreement with DelDOT to fund an equitable portion of the installation of single land roundabout at the intersection of Delaware Route 23 and Pot Nets Road (Sussex Road 22C). The agreement should

be worded such that DelDOT may utilize the funding contribution from the installation of a traffic signal at this intersection, should a roundabout be determined to be infeasible at DelDOT's discretion. The agreement should include pedestrian signals, crosswalks and interconnection at DelDOT's discretion"; 3 The Conditional Use shall be served by the Long Neck Sanitary Sewer District; 4. The Conditional Use shall utilize public water from the Long Neck Water Company; 5. Stormwater management and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using best management practices; 6. The Applicant shall cooperate and coordinate with the State and County emergency preparedness offices to develop and implement an emergency evacuation plan; 7. The campground/RV park may open no earlier than April 1st each year and shall close no later than October 31st of each year; 8. The campground/RV park shall remain vacant and no campers or RVs shall be stored on the sites during the period that the park is closed, except Applicant owned "park model" units; 9. There shall be no accessory buildings located on individual campsites; 10. All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreation vehicles and equipment manufactured specifically for camping purposes; 11. One sign not exceeding thirty-two (32) square feet per side with lighting shall be permitted; 12. The Applicant shall plan the entrance design to accommodate a bus stop and turnabout in accordance with DART; 13. Final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Commission found that the Applicants representatives responded to questions raised by the Commission by adding that no stormwater management ponds are proposed; that water quality will be maintained; that pervious pavement is proposed to be used for pad sites and parking areas; that filter strips will be utilized throughout the project; that 50-foot buffers will be provided; that there will not be any wetlands on any camp sites; that wetlands will not be disturbed; that DNREC will mandate the protection of wetland features; that wetlands will be improved to stop shoreline erosion; that turf will be utilized per Sussex Conservation District guidelines; that they intend to protect as many trees as possible; that phragmites will have to be eradicated; that the District wants all drainage to be directed towards streets; that 10% of the units are anticipated to be park models; that the park models are intended as rental units; that no seasonal sites are intended; that sites are intended to be for transient use; that based on DelDOT criteria, single-family units generate approximately 10 trips per day and RV sites have a 20% reduction compared to a single-family unit; that an RV can remain on site for 180 days or be removal ready in case of evacuation; that park models will be there for the entire season and then moved out of Flood Zone areas for winterization; that the DART bus stop site is a public bus stop; that the closest bus stop to this site is in Pot Nets; that the café is planned for use by the campground residents; that campsites are intended to be weekly rental spaces; that campsite rental for an entire season is not an option; that the County Code requires 30-foot wide right-of-ways with a 20-foot wide road maintained; that sidewalks are not proposed; that walking trails and paths are proposed; that they intend to contribute to the multi-modal path fund, not to build the path since there is no connection to an existing path; that guest parking spaces will be provided near the frontage along Long Neck Road; that they would prefer to mark the wetlands boundaries with split rail fencing, rather than boundary markers; that campsites will be a minimum of 400-feet from any dwelling off-site; that, by definitions in the Code, manufactured

homes are not defined as dwellings; that land use decisions are not based on popularity, and must be based on facts; that DelDOT utilizes ITE guidelines; and that emergency evacuation plans will comply with evacuation procedures created by County and State emergency officials and local officials.

Mr. Robertson advised the Commission that campsites are required to be at least 400-feet from a dwelling of other ownership; that the definition of a dwelling in the Zoning Code states: “A building or portion thereof containing cooking and housekeeping facilities, designed or used exclusively for residential occupancy, but not including manufactured homes, hotels, motels, motor lodges, boarding and lodging houses, tourist courts or tourist homes”.

The Commission found that there were no parties present in support of these applications.

The Commission recessed for five (5) minutes.

The Commission found that Mary Schrider-Fox, Attorney with Steen Waehler & Schrider-Fox, LLC was present on behalf of the Massey’s Landing Tenants Association and others in the area, and stated that she opposes the applications; that the Applicants are requesting a down-zoning for the purpose of a campground; that down-zonings are normally for less intense uses; that they have applied because a campground is not a listed permitted use in a MR Medium Density Residential District; that a campground is a more intense use than a single-family community; that the use will not comply with the Comprehensive Land Use Plan since the site is located in a Low Density Area and the Environmentally Sensitive Developing Area; that the use does not support Agriculture; that the use is not a residential project, it is a commercial enterprise in the middle of a residential area; that park amenities are only planned for park guests, not the general public; that the use does not promote safety, health, or the general welfare of the community; that letters in opposition to the applications reference safety concerns, traffic backups, evacuation issues, parking of vehicles from the State boat ramp parking along Long Neck Road, among other issues; that residents have a concerns that they will be evicted from the homes, which they own; that emergency response limitations is a major concern; that the use is not beneficial to area residents; that lessening of congestion needs to be addressed; that the traffic impact study is eight years old and DelDOT has not considered that things have changed since 2005; that the traffic impact study referenced a residential Planned Community, not a campground; that roads are an issue since RVs are larger than standard vehicles; questioning the number of employees; that the use is not for the convenience of the community residents; that the site plan does not comply with the requirements of the Code; that the tent sites do not comply with the dimensional requirements; that the site locations do not comply with the 400-foot separation from a dwelling requirement, since there is a dwelling within Pot Nets and within Massey’s Landing Park; that the Code does not provide any language for recreational amenities, and many are proposed within this project; that normally if a use is silent and not specifically referenced, it is prohibited; that the use does not fit in this residential area of Long Neck Road; and that she requests that the applications be denied.

The Commission found that Jeff Marks, a resident of Massey's Landing and Newark, was present in opposition, presented a Power Point, and stated that the residents are present, not to oppose the development of the property, and are supportive of the development of the property in accordance with the current zoning and as recommended by the Comprehensive Plan on behalf of the communities of Long Neck Road, and to protect the safety, the tax base and the quality of life of those residents; that he shared the site plan with the majority of the signers of petitions in opposition to this use; that one of the fastest growing areas of the County is Long Neck with a growth rate of 55%, and with an average age of 62 years; that the proposed project is located in a Investment Level #3 where environmental constraints exist and where infrastructure is not a priority according to the State Strategies for Policies and Spending; that the proposed RV park will not generate Realty Transfer Tax and will drain the County for infrastructure and resources; that portions of the project on the north side and on the south side of Long Neck Road are within 400-feet of a dwelling in Pot Nets Dockside; that it does not make any sense to establish a campground in a flood zone in an area that is prone to flooding and is often cut off by coastal storms; that photographs in the Power Point depict flooding over Long Neck Road; that the shoulders along Long Neck Road are less than eight (8) feet in width and too narrow for parking, but vehicles from the State boat ramp park on the shoulders; that the residents are concerned about evacuation in emergencies; that the use of Park Models is a concern since they are not easily moved, except by experts; that the Power Point depicts damages to Park Models during Hurricane Sandy; that Long Neck Road and some of the communities are impacted by flood waters during hurricane and northeaster storms; that a 2005 Traffic Impact Study does not provide current data on counts, etc. and a new Traffic Impact Study should be required; and that this proposal should be denied since: the proposal is to place an RV Park on a road that is a flood plain when there is only one way in and one way out; that there are currently over 4,500 RV sites available for RVs within the area; that downzoning this property from MR to AR-1 is a direct conflict with the Future Land Use Plan Map of the Comprehensive Plan; that revenue will be impacted due to the loss of Realty Transfer and Property Taxes; that the Applicants have submitted an eight (8) year old Traffic Impact Study; that they are proposing a plan without the appropriate buffers required; that the project will impact the State boat ramp and facilities; and that the project may put the current residents and emergency response teams of Long Neck Road at risk in the event of an evacuation. A paper copy of the Power Point presented is a part of the record.

The Commission found that William Higgins, President of the Homeowners Association of Pot Nets Dockside and Seaside, was present in opposition and speaking on behalf of 500 residents within the two referenced parks, and stated that he is not opposed to RV parks, but is opposed to this location on a dead end road in an area that floods; that he has visited the Castaways Ocean City park and noted that it has two outlets; that he has requested that DelDOT do a summer count of traffic for Long Neck Road; that he is concerned about safety issues; that the lagoons are unprotected; that canoe rentals are proposed in a tidal area; that a pond on the site has been reported to be contaminated; that golf carts are proposed to be rented; that evacuation notice and compliance is a major issue; that a lot of residents wait until the last moment to evacuate; that Long Neck Road only has two lanes; that in 2012 there were 102 accidents along Long Neck Road with one of the accidents being a fatal accident; that there are five campgrounds in the

Long Neck area, many of which have vacancies; and noted that the Commission should visit the Long Neck area this weekend, Memorial Day weekend, and see the traffic and the parking along the shoulders near the State boat ramp. Mr. Higgins submitted three pictures that: depict flooding of the Pot Nets Dockside entrance during Hurricane Sandy, flooding of the State boat ramp parking lot; and flooding over Long Neck Road between Pot Nets Dockside and Pot Nets Coveside.

The Commission found that Charles Bartels, a resident of Massey's Landing Park, presented a letter and Power Point, referencing that the approval of this project would pose many problems for the entire Long Neck area, including but not limited to tremendous traffic issues during the summer tourist season; that traffic is already a concern on Long Neck Road, especially on summer weekends; that evacuation during national disasters and for medical reasons would become a huge problem; that many residents of the Long Neck area are senior citizens with increasing medical issues; that first responders, i.e. police and firefighters, response time would be increased with possible disastrous consequences; that increased usage of the area, resulting from 322 RV lots would stress an already fully utilized area, ecologically; that the undeveloped area is the home of many species, including deer, fox, wild turkey, and numerous oak-pine forest, maritime forest, and wetland plants and animals; that this area includes frontage on Massey's Ditch and the shallow Roman T. Pond, which are environmentally fragile areas; that run-off and pollution from increased boat usage may impair the water quality; that increased trash, especially plastics, would likely find its way into the surrounding waters; that development of the forested and wetland areas reduces the natural filtration of runoff, and could lead to increased turbidity, siltation and eutrophication; that the increase in impervious surfaces, such as trailers and roads, will decrease the freshwater recharge of local groundwater supplies; that development of these undeveloped areas would significantly reduce the biodiversity of the area; that many terrestrial and aquatic species live and reproduce in the area; that removal of these essential habitats would cause greatly reduced populations of many of these native species; that the natural beauty of this area is what makes the remaining undeveloped areas of Long Neck special; that the Inland Bays of Delaware have been under development pressure for a long time; that recent legislation and wise land use regulations have greatly reduced new development in the last decade; that not coincidentally, improved water quality, increases in invertebrate and fish populations and reestablishment of terrestrial species, such as turkeys and bald eagles, has occurred during this time period; that development of the 322 RV lots will undoubtedly lead to the subsequent second phase of development for a total of 575 RV sites; that this would destroy the many resources that attract visitors to the Long Neck and Inland Bays area; that the Castaways group has been moving from location to location around the Inland Bays trying to develop RV parks; that development of the RV park could eventually displace close to 100 families in the existing Massey's Landing Park; that the Massey's Landing Park has existed for over 40 years; that many of these families live here full-time; that many of the families are on fixed incomes; that having to move would be a major financial problem since these homes cannot be moved, and selling them is now impossible and unethical with the impending sale of the land; that increased transient visitors have no sense of ownership and would be less likely to care for the environment or their neighbors, and would impact Massey's Landing Park and the neighboring Pot Nets Communities; and that if allowed to start this project there may be no

stopping continued development of Long Neck. The Power Point, which includes text, maps, aerials, photographs, renderings, and charts, is a part of the record.

Ms. Fox, in response to a question by the Commission, stated that the conditions and traffic along Long Neck Road have changed since 2007.

The Commission found that James Chillik of Massey's Landing spoke in opposition and stated that he purchased his house, which is not a manufactured home, eight years ago, and due to the flooding issues has raised his house, which is now a two story house; that the house is listed as a dwelling, not a manufactured home, per the County Assessment records, and that he is here trying to protect his investment; and feels that he may have been misrepresented by his Realtor.

The Commission found that David Gray of Mariner's Cove spoke in opposition and stated that he questions how Park Model homes can readily be removed in a storm event, and expressed public safety concerns relating to fire and police protection.

The Commission found that Mr. Riemann responded that they have met with the Office of the State Fire Marshal and representatives of the Indian River Volunteer Fire Department and will comply with their requests for fire hydrants and dry hydrants.

The Commission found that Ms. Walsh responded that a Park Model home can be unhooked and removed from a site within 20 minutes.

The Commission found that Betty Greenwalt, a resident of Pot Nets Lakeside; Shawn Kilpatrick, a resident of Pot Nets; Paula Rappa; Bob Teechert, a resident of Creeks End; Denny Coffman; Joan Race, a resident of Pot Nets Coveside; Bill Holston, a resident of Massey's Landing; and Jim Gervan, a resident of Creeks End; also spoke in opposition and expressed concerns that a lot of the residents in the Long Neck area are full-time residents and mostly senior citizens; that emergency vehicles travel Long Neck Road daily; that school buses travel Long Neck Road during school sessions; that there are no benefits for the youth in the Long Neck area; that there are no malls, movie theaters, or recreational centers; that golf carts travel up and down Long Neck Road; that Long Neck Road cannot support an RV park; that police and fire response time is a major concern; that DelDOT needs to include standards for RV parks in their regulations; that the Long Neck Elementary School will be negatively impacted; that by creating more traffic you create more delays; that the State boat ramp is already at capacity and people are parking their vehicles and trailers on the shoulder; that most of the campers will probably be towing a boat and trailer; that the Massey's Landing boat ramp has the only handicap accessible pier; that additional boats will negatively impact people that already fish; that the rental of boats and canoes should not be permitted since they do not mix well with motorized watercraft, especially near a boat ramp; that approval of this project will increase the number of transients in the area; that trespassing is a concern; that Massey's Landing Association has 67 home owners, of the 96 homes on the site, that they are opposed to this application; that the residents have a fear that they will lose their leased lots; that there could be major impacts on the archaeological nature of the area; and that no one has appeared in support of the application.

Mr. Clark responded that each campsite will have space on the sites for parking of the tenant's vehicle and boat trailer.

At the conclusion of the public hearings, the Commission discussed these applications.

In reference to C/Z #1729:

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for time for further consideration given the amount of materials and statements received. Motion carried 5 – 0.

In reference to C/U #1963:

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for time for further consideration given the amount of materials and statements received. Motion carried 5 – 0.

OTHER BUSINESS

Long Neck Elementary School
CU #1043 Revised Site Plan – Road 298 (Banks Road)

Mr. Abbott advised the Commission that this is a revised site plan for a 3,600 square foot pole building located on 17.83 acres; that CU #1043 was approved on June 29, 1993 with the condition that the site plan shall be subject to the review and approval of the Commission; that the setbacks meet the minimum requirements of the zoning code; that the building will be utilized for temporary classrooms during the construction of additions to the existing school building; that once the additions are completed, the building will be utilized for storage; that the revised site plan can be approved as submitted, or an amended conditional use application could be required; that if the revised plan is approved as submitted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Bryan D. and Angela M. Dattilo
2 Parcels and 50' Right of Way – Road 505 (Ralph's Road)

Mr. Abbott advised the Commission that this is a request to subdivide a 6.403 acre parcel into 2 parcels with access from a 50-foot right of way; that Lot 1 will contain 1.468 acres and there is an existing dwelling located on it; that Lot 2 will contain 4.935 acres; that the owner is proposing to create the 50-foot right of way over an existing driveway; that DelDOT has issued a Letter of

No Objection; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

Meeting adjourned at 10:25 p.m.